IN THE FEDERAL HIGH COURT
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

MOTION NO.:
SUIT NO.: **FHC/ABJ/CS/562/25**

IN THE MATTER OF AN APPLICATION BY MRS AKABIKE (SUING AS A GUARDIAN FOR MASTER CHUKWUEMEKALUM ALEXANDER) FOR THE ENFORCEMENT OF THE FUNDAMENTAL HUMAN RIGHTS OF FAIR HEARING AS PROVIDED AND PROTECTED UNDER SECTION 36 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) AND UNDER THE INHERENT JURISDICTION OF THIS HONOURABLE COURT

BETWEEN:

CHUKWUEMEKALUM ALEXANDER AKABIKE - APPLICANT/RESPONDENT
(Suing through his next friend Mrs Ogochukwu Jacinta Akabike)

AND

1. **NIGERIAN AIR FORCE**
2. **GROUP CAPTAIN NU DANJUMA**

} RESPONDENTS/ APPLICANTS

RESPONDENTS/APPLICANTS' MOTION FOR EXTENSION OF TIME TO FILE THE MEMORANDUM OF CONDITIONAL APPEARANCE

Filed by:

J-K Gadzama LLP
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(For the Respondents/Applicants)

FEDERAL HIGH COURT
ABUJA
28 JUN 2025
PAID
Sign.
1412756152 98

IN THE FEDERAL HIGH COURT
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

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AND

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2. **GROUP CAPTAIN NU DANJUMA**

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MOTION ON NOTICE

ORDER 26 RULE 2 AND ORDER 48 RULE 4 OF THE FEDERAL HIGH COURT (CIVIL PROCEDURE) RULES 2019; AND UNDER THE INHERENT JURISDICTION OF THIS HONOURABLE COURT

TAKE NOTICE that this honourable Court will be moved on the _____ day of _____2025 at the hour of 9 O'clock in the forenoon or so soon thereafter as Counsel for the Respondents (Applicants) will be heard praying this honourable Court for the following reliefs:

1. **AN ORDER** of this honourable Court extending the time within which the Applicants may file and serve their Memorandum of Conditional Appearance, already filed and served.

2. **AN ORDER** of this honourable Court deeming the Applicants' Memorandum of Conditional Appearance, already filed and served on the Respondent, as properly filed and served.

3. **SUCH FURTHER ORDER(S)** as this honourable Court may deem fit to make in the circumstances.

TAKE FURTHER NOTICE that the grounds upon which this application is brought include the following:

a. The time prescribed for the Applicants under the Rules of this honourable Court to file their Memorandum of Conditional Appearance has elapsed.

b. The Applicants' Memorandum of Conditional Appearance could not be filed within the prescribed time due administrative bottlenecks in the office of the Applicants.

c. The Applicants' Memorandum of Conditional Appearance has now been filed, albeit out of the time prescribed under the Rules of this honourable Court.

d. An Order of this honourable Court is now required to regularize the Applicants' Memorandum of Conditional Appearance already filed and served on the Respondent, so as to enable the Applicants the opportunity to be heard in this application.

DATED THIS THURSDAY, THE 19TH DAY OF JUNE, 2025

Joe-Kyari Gadzama, OFR, MFR, SAN, FNIALS, FCIMC, DiplCArb, FCIArb,
Darlington Onyekwere, Esq.;
Oluniyi Adediji, Esq.;
Chidera Mgbe, Esq.;
Mark Chidi Agbo, Esq.;
Jerry Ombugadu Musa, Esq.;
Madu Joe-Kyari Gadzama, Esq. [Signed];
Lamar Joe-Kyari Gadzama, Esq.;
Sarah Jeta Atumga, Esq.;
Onyekachi Agbonma Eluwa, Esq.;
Gideon Ohiani Agbedo, Esq.;
Hajara Mohammed Sani Sorondinki, Esq.;
Victor Okon Daniel, Esq.;
Tabji Simon Baltai, Esq.
Abubakar Ali Kachallah Mohammed, Esq.;
Mark Asu-Obi, Esq.;
(For the Respondents/Applicants

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IN THE FEDERAL HIGH COURT
IN THE ABUJA JUDICIAL DIVISION
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MOTION NO.:
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BETWEEN:

CHUKWUEMEKALUM ALEXANDER AKABIKE - APPLICANT/RESPONDENT
(Suing through his next friend Mrs Ogochukwu Jacinta Akabike)

AND

1. **NIGERIAN AIR FORCE**
2. **GROUP CAPTAIN NU DANJUMA**

RESPONDENTS/ APPLICANTS

AFFIDAVIT IN SUPPORT OF APPLICANTS' MOTION ON NOTICE FOR EXTENSION OF TIME

I, **Tajudeen Ayeni**, male, adult, Muslim, and Nigerian citizen of Plot 1805, Damaturu Crescent, Off Kabo Street, Off Ahmadu Bello Way, Garki 2, Abuja, do hereby make oath and state as follows:

1. I am a Litigation Secretary in the law firm of J-K Gadzama LLP, the firm representing the Applicants herein, by virtue of which position I am conversant with the facts deposed to herein.

2. I have the consent of my employer and that of the Applicants to depose to this affidavit.

3. I was informed by Victor Okon Daniel, Esq., one of the Counsel in our firm handling this matter and responsible for filing during the review of this case on Wednesday, 18 June 2025 at 12:22 p.m., at our office at Plot 1805, Damaturu Crescent by Kabo Street, Off Ahmadu Bello Way, Garki 2, Abuja of the following facts, which I verily believe to be true as follows:

a. That the time prescribed for the Applicants under the Rules of this honourable Court to file their Memorandum of Conditional Appearance has since elapsed.

b. That the Applicants' Memorandum of Conditional Appearance could not be filed within the prescribed time due to administrative bottlenecks in the office of the Applicants.

c. That Applicants' Memorandum of Conditional Appearance has now been filed, albeit out of the time prescribed under the Rules of this honourable Court.

d. That an Order of this honourable Court is now required to regularize the Applicants' Memorandum of Conditional Appearance already filed and served on the Respondents, so as to enable the Applicants the opportunity to be heard in this matter.

e. That the Applicants have paid the fees prescribed as penalty for default.

f. That the Applicants' Memorandum of Conditional Appearance is hereby verified as Exhibit "A".

g. That Applicants' delay in filing their Memorandum of Conditional Appearance was neither deliberate nor out of disrespect to this Court.

h. That this application is made in good faith.

i. That the Respondents will not be prejudiced in any way by the grant of this application.

4. The interest of justice will be better served by the grant of this application.

5. I depose to this affidavit in good faith, conscientiously believing its content to be true and accurate, and in accordance with the provisions of the Oaths Act, 2004.

DEPONENT

SWORN AT THE REGISTRY OF FEDERAL HIGH COURT, ABUJA

DATED THIS 23rd DAY OF June 2025

BEFORE ME

COMMISSIONER FOR OATHS
FEDERAL HIGH COURT
23/6/25 ABUJA

COMMISSIONER FOR OATHS

Exh "A"

Count 13

IN THE FEDERAL HIGH COURT
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

SUIT NO.: **FHC/ABJ/CS/562/25**

IN THE MATTER OF AN APPLICATION BY MRS AKABIKE (SUING AS A GUARDIAN FOR MASTER CHUKWUEMEKALUM ALEXANDER) FOR THE ENFORCEMENT OF THE FUNDAMENTAL HUMAN RIGHTS OF FAIR HEARING AS PROVIDED AND PROTECTED UNDER SECTION 36 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) AND UNDER THE INHERENT JURISDICTION OF THIS HONOURABLE COURT

BETWEEN:

CHUKWUEMEKALUM ALEXANDER AKABIKE - APPLICANT
(Suing through his next friend Mrs Ogochukwu Jacinta Akabike)

AND

1. **NIGERIAN AIR FORCE**
2. **GROUP CAPTAIN NU DANJUMA** } RESPONDENTS

RESPONDENTS' MEMORANDUM OF CONDITIONAL APPEARANCE

Filed by:

COMMISSIONER FOR OATHS
FEDERAL HIGH COURT
23/6/25
ABUJA

J-K Gadzama LLP
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(For the Respondents)

FEDERAL HIGH COURT
ABUJA
17 JUN 2025
PAID
Sign: .....

3312730244407

IN THE FEDERAL HIGH COURT
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

SUIT NO.: **FHC/ABJ/CS/562/25**

IN THE MATTER OF AN APPLICATION BY MRS AKABIKE (SUING AS A GUARDIAN FOR MASTER CHUKWUEMEKALUM ALEXANDER) FOR THE ENFORCEMENT OF THE FUNDAMENTAL HUMAN RIGHTS OF FAIR HEARING AS PROVIDED AND PROTECTED UNDER SECTION 36 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) AND UNDER THE INHERENT JURISDICTION OF THIS HONOURABLE COURT

BETWEEN:

CHUKWUEMEKALUM ALEXANDER AKABIKE - APPLICANT
(Suing through his next friend Mrs Ogochukwu Jacinta Akabike)

AND

1. **NIGERIAN AIR FORCE**
2. **GROUP CAPTAIN NU DANJUMA** } RESPONDENTS

RESPONDENTS' MEMORANDUM OF CONDITIONAL APPEARANCE

Please enter a conditional appearance for: Nigerian Air Force and Group Captain NU Danjuma sued as the 1st and 2nd Respondents in this action.

DATED THIS MONDAY, THE 16TH DAY OF JUNE, 2025

Joe-Kyari Gadzama, OFR, MFR, SAN, FNIALS, FCIMC, DipICArb, FCIArb,
Oluniyi Adediji, Esq.;
Darlington Onyekwere, Esq.;
Chidera Mgbe, Esq.;
Mark Chidi Agbo, Esq.;
Jerry Ombugadu Musa, Esq.;
Madu Joe-Kyari Gadzama, Esq. **[SIGNED]**;
Lamar Joe-Kyari Gadzama, Esq.;
Sarah Jeta Atumga, Esq.;
Onyekachi Agbonma Eluwa, Esq.;
Hajara Mohammed Sani Sorondinki, Esq.;
Gideon Ohiani Agbedo, Esq.;
Victor Okon Daniel, Esq.;

Tabji Simon Baltai, Esq.
Mark Asu-Obi, Esq.;
Abubakar Ali Kachallah Mohammed, Esq.;
(For the 1st and 2nd Respondents)

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(Suing through his next friend Mrs Ogochukwu Jacinta Akabike)

AND

1. **NIGERIAN AIR FORCE**
2. **GROUP CAPTAIN NU DANJUMA**

} RESPONDENTS/ APPLICANTS

APPLICANTS' WRITTEN ADDRESS IN SUPPORT OF MOTION ON NOTICE FOR EXTENSION OF TIME

1.0 INTRODUCTION

1.1 Your Lordship, before this honourable Court is a Motion on Notice brought pursuant to Order 26 Rule 2 and Order 48 Rule 4 of the Federal High Court (Civil Procedure) Rules 2019 and under the inherent jurisdiction of this honourable Court.

1.2 The motion is seeking the reliefs endorsed on the face of the motion paper.

1.3 In support of the motion is a 5-paragraph affidavit deposed to by Tajudeen Ayeni. We place reliance on all paragraphs of the affidavit and the filed processes before this Honourable Court in urging your Lordship to grant the instant application as prayed.

2.0 Relevant Facts

2.1 The facts relevant to this application are as contained in the supporting Affidavit deposed to by Tajudeen Ayeni.

3.0 SOLE ISSUE FOR DETERMINATION

3.1 The Applicants, for the purpose of this application have distilled a sole issue for determination to wit;

> *"Whether the* Applicants *are entitled to the reliefs sought"*

4.0 LEGAL ARGUMENT

4.1 Your Lordship, it is our submission that the grant of this instant application is at the discretion of this Honourable Court.

4.2 The applicable Civil Procedure Rules here, Federal High Court (Civil Procedure) Rules 2019, Order 48 Rule 4 thereof expressly allows for the bringing of an application of this nature.

4.3 Furthermore, the power of the Court to extend the time within which a party can carry out an act has been given judicial imprimatur by a plethora of decided cases. The decision in **Ika Local Govt. Area V. Mba** (2007) 12 NWLR (Pt. 1049) 676 is apt here where the Court of Appeal stated thus:

> *"Moreover, a Court of trial has an inherent jurisdiction to extend the time for the doing of any act in any given case."*

4.4 Also, see **Ibitoye V. Nigerian Navy** Board (2016) LPELR-40058(CA) where it was held thus:

> *"The judge may, as he deems fit and either before or after the expiration of the time appointed by these rules or by any Judgment or order or the Court, extend or adjourn the time for doing any act or taking any proceedings."*

4.5 By the affidavit in support of this application, the Applicants have demonstrated before this Court the reasons for the default of filing and that the default has been remedied with the payment of the penalty for the default.

4.6 The law is settled that the nature of this application calls for the exercise of discretion by this honourable Court. It has been held that the Court, as the last

hope of the common man, ought to consider the peculiarities of each case in the exercise of its discretion. Please see the decision in **Orizu v. Ofomata** (2007) 13 NWLR (Pt. 1052) 487 at 502 – 503, Para H, where the Court held thus:

> *"The court has a discretionary power to exercise in the matter and like every other discretionary power, it must be exercised judicially and judiciously... The discretionary power must be exercised not in vacuum but in relation to the facts of the particular case before the court."*

4.7 We submit that, considering the peculiar facts and circumstances of this case, this honourable Court ought to exercise its discretion in favour of the Applicants and grant this application.

4.8 Your Lordship, the Applicants humbly submit that in an application such as this, an applicant must adduce good reason for the delay in filing its processes within time. In the case of **AG Ogun State v. Coker** (1993) 9 NWLR (Pt. 316) 241 at 250 - 251 the Court, in relation to an application for extension of time to take a procedural step, held as follows:

> *"When a Court is called upon to make an order for extension of time within which to do certain things (i.e extension of time prescribed by the Rules of Court for taking certain procedural steps) the Court ought always to bear in mind that the Rules of Court must prima facie be obeyed and that it, therefore, follows that in order to justify the exercise of the Court's discretion in extending the time within which a procedural step has to be taken there must be some material upon which to base the exercise of that discretion."*

4.9 Also, in **Long-John v. Blakk** (1998) 6 NWLR (Pt. 555) 524 at 542, Paras B - C, the Supreme Court, per Iguh JSC, held as follows:

> *"For an application for extension of time within which an appellant may file his brief of argument out of time or indeed for an extension of the time prescribed by the rules of court for taking certain procedural steps to succeed, the applicant must establish good, substantial or exceptional reasons or circumstances to explain satisfactorily the delay in filing his brief or taking the steps in issue and thus justify the grant of the extension of time applied for."*

4.10 The pertinent question, therefore, is whether the Applicants in this suit have adduced sufficient facts as to be entitled to the grant of this application. In answering this question in the affirmative, we humbly refer your Lordship to paragraph 3(b) of the affidavit in support of this application wherein relevant

facts that led to the delay in filing the processes within the period stipulated by the Rules of this honourable Court were clearly highlighted.

4.11 It is also trite law that this power of the Court is discretionary, and we humbly urge this honourable Court to exercise discretion judicially and judiciously in favour of the Applicants herein.

5.0 CONCLUSION

5.1 Flowing from the foregoing, we have been able to establish that this honourable Court has the discretionary powers to grant the reliefs sought in the instant application and have adduced good reasons why this honourable Court should exercise its discretion in favour of the Applicants and grant this application.

5.2 We thus most respectfully urge this honourable Court to exercise its discretion in favour of the Applicants and grant the reliefs as prayed.

DATED THIS THURSDAY, THE 19TH DAY OF JUNE, 2025

Joe-Kyari Gadzama, OFR, MFR, SAN, FNIALS, FCIMC, DipICArb, FCIArb,
Darlington Onyekwere, Esq.;
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